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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DEC 6 1993

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations)
(Blanchard, Louisiana and)
Stephens, Arkansas))

FCC-93-135
MM Docket
RM-8156

To: The Commission

OPPOSITION TO APPLICATION FOR REVIEW

Comes now Daryl L. Bordelon ("Bordelon"), and submits the following "Opposition To Application For Review" in response to the "Application For Review" filed by Arkansas Wireless Co. ("Wireless"), on November 3, 1993. 1/

BACKGROUND

This proceeding began with the filing of a petition to amend the FM Table of Allotments, Section 73.202(b) of the

1/ Wireless' "Application For Review" was released on Public Notice No. 1987, *Petitions for Reconsideration and Application For Review Of Actions in Rulemaking Proceedings*, November 23, 1993. Thus, the instant Reply Comments are timely filed.

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Commission's Rules, requesting the allotment of FM Channel 271C3 to Blanchard, Louisiana, as that community's first local FM service. Wireless counterproposal requested the allotment of Channel 271A to Stephens, Arkansas, as that community's first local FM service.

On September 13, 1993, the Commission staff, acting under delegated authority, adopted a *Report and Order* allocating Channel 271C3 to Blanchard and denying Wireless' proposal to allocate Channel 271A to Stephens, Arkansas. Wireless now seeks Commission review of that action, based on their argument that the U.S. Census Bureau figures may be inaccurate.

In allocating Channel 271C3 to Blanchard and denying the allocation of Channel 271A to Stephens, Commission staff relied on the allotment criteria set forth in *Revision of FM Policies and Procedures*, 90 FCC2d 88, 51 RR2d 807 (1982), *recon. denied* 56 RR2d 448 (1984), in which conflicting proposals are weighted as follows:

- (1) first full-time aural service;
- (2) second full-time aural service;
- (3) first local service;
- (4) other public interest matters.

(Co-equal weight is accorded priorities (2) and (3).)

In the *Report and Order*, the Commission noted:

"The allotment of a channel to Blanchard or Stephens would provide a first local service to either community, fulfilling priority (3). Thus, our decision must be based on priority (4) - other public interest matters. In this regard, neither petitioner nor Wireless has provided any evidence to set apart its proposal from the others. Therefore, in determining whether Blanchard or Stephens should receive the allotment, we have looked at other factors, such as the availability of reception services and populations. A Commission engineering analysis indicates that both communities are well-served by reception services. Since each community is served by a number of stations, we believe the new allotment should be made to Blanchard as the larger of (the) two communities."
2/

In selecting Blanchard over Stephens, the Commission used a policy that it has relied on for over 11 years, that is the more populous community is to be preferred over the smaller community, citing Bostwick and Good Hope, Georgia, 6 FCC Rcd 6084 (1991) and Three Oaks and Bridgman, Michigan, 5 FCC Rcd 1004 (1990). The *Report and Order* also noted "this is the only distinguishable factor between the two proposals." 3/ Wireless now argues that Stephens should be the preferred community because it receives less service than Blanchard, because Blanchard is a "white bedroom community" of Shreveport, and because, it asserts, the U.S. Census Bureau figures may have undercounted blacks in Stephens.

2/ See *Report And Order* at para. 4.

3/ See *Report And Order* at para. 4.

There is no legal basis for any of Wireless arguments. Although Blanchard does receive more reception services than Stephens, both towns are, as noted by the Commission "well-served". ^{4/} No first full-time aural service or second full-time aural service would be provided as the result of an allotment to either town. Furthermore, as the Commission has long held, reception of service from a nearby larger community is no substitute for local service. The fact that Blanchard receives service from stations licensed to the nearby larger community of Shreveport is irrelevant. Stations licensed to Shreveport are under no obligation to provide service to meet the needs of the citizens of Blanchard, Louisiana. Furthermore, Blanchard's alleged status as a "white bedroom community" versus Stephens status as "a rural community with significant minority population" is also irrelevant. There is no provision in the Commission's allotment priorities concerning "white" versus "black" population.

Wireless' arguments concerning inaccuracies in the U.S. Census figures are also unpersuasive. The Commission has long relied on U.S. Census figures to determine the

^{4/} See *Report And Order* at para. 4.

population of cities and towns. According to these figures, Blanchard is larger than Stephens. Period. Short of going door-to-door and conducting a new census, the Commission must rely, as it has in the past, on official published U.S. Census figures.

Although it is quite clear that Blanchard is to be preferred over Stephens in the allocation of a new FM channel, Bordelon has nevertheless commissioned a Population Count which demonstrates that a new station on Channel 271C3 at Blanchard, Louisiana, would serve 342,776 persons within an area of 4,779.4 square kilometers, compared to only 33,337 persons within an area of 2,501.7 square kilometers that would be served by a new station on Channel 271A at Stephens, Arkansas (see attached Exhibit). A new station at Blanchard will serve more than ten times as many people than a new station at Stephens. Moreover, if black population is to be made an issue, a new station on Channel 271C3 at Blanchard, Louisiana, would serve a total of 118,342 blacks, compared to only 10,938 blacks that would be served by a new station on Channel 271A at Stephens, Arkansas. A new station at Blanchard would serve almost eleven times more blacks than a new station at Stephens.

In view of the foregoing, Bordelon hereby requests the Commission to reject the "Application For Review" filed by Arkansas Wireless Company and to uphold the allotment of Channel 271C3 to Blanchard, Louisiana.

Respectfully submitted,

Daryl L. Bordelon
6036 Dillingham Drive
Shreveport, LA 71106

December 1, 1993

CONTEMPORARY COMMUNICATIONS

P.O. BOX 1787 • CLEVELAND, MS 38732 • (601) 846-1787 • FAX (601) 843-0494

TECHNICAL EXHIBIT

MM DOCKET NO. 93-13

DEC 6 1993

FCC - WASH DC

I have been retained by Daryl L. Bordelon to ascertain the area and population to be covered by proposed new FM stations at Blanchard, Louisiana (Channel 271C3) and Stephens, Arkansas (Channel 271A).

Using the reference coordinates specified for each of the proposals, the average elevation data between 3 to 16 kilometers for each of the eight standard radials was computer generated in accordance with Section 73.312(d) of the FCC Rules and Regulations, using the National Geophysical Data Center (NGDC) linearly interpolated 30-second database (TPG-0050). The distance to the 1 mV/m (60 dBu) contour for each proposal was computer generated in accordance with Section 73.333, Figure 1, of the FCC Rules and Regulations. The area and population within the 1.0 mV/m contour was then calculated using the computerized "COUNTPOP" program which utilizes the 1990 census data from the PL 94-171 files, as supplied by the United States Bureau of Census.

The results indicate that a new station on Channel 271C3 at Blanchard would serve a total of 342,776 persons in an area of 4,779.4 square kilometers, while a new station on Channel 271A at Stephens would serve 33,337 persons in an area of 2,501.7 square kilometers. The total persons served by the Blanchard facility is over ten times that of the Stephens facility.

Please direct any questions concerning this matter to the undersigned.

Respectfully submitted,

Larry G. Fuss
Larry G. Fuss
Technical Consultant
FCC License No. PG-8-8450

November 29, 1993

N. Lat= 323518
W. Lng= 935331

Contour = 60 dBu/ .5
O.K. (Y/N)= Y? y

Counting population at: N. Lat. 32 35 18 W. Lng. 93 53 31

State	Total	Caucasians	Blacks	Amer. Indian	Asians	Others
LA	330,460	211,904	114,721	861	2,020	954
TX	12,316	8,551	3,621	45	25	74

Total	342,776	220,455	118,342	906	2,045	1,028

Disk File = F, Keyboard Data = K, Set Path = S, Quit = Q = F

N. Lat= 332335
W. Lng= 930657

Contour = 60 dBu/ .5
O.K. (Y/N)= Y? y

Counting population at: N. Lat. 33 23 35 W. Lng. 93 06 57

State	Total	Caucasians	Blacks	Amer. Indian	Asians	Others
AR	33,337	22,225	10,938	64	84	26

Total	33,337	22,225	10,938	64	84	26

Disk File = F, Keyboard Data = K, Set Path = S, Quit = Q = F

CERTIFICATE OF SERVICE

I, Larry G. Fuss, certify that I have this 1st day of December, 1983, sent by regular United States mail, postage prepaid, a copy of the foregoing "Opposition To Application For Review" to the following:

Mr. F. Joseph Brinig
BRINIG & BERNSTEIN
Suite 200
1818 N Street, NW
Washington, DC 20036

Larry G. Fuss
Larry G. Fuss

12/1/93
Date